

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 17th day of February, two thousand sixteen.

PRESENT:

DENNIS JACOBS,
DEBRA ANN LIVINGSTON,
RAYMOND J. LOHIER, JR.,
Circuit Judges.

LUAN LIN,
Petitioner,

v.

13-3263
NAC

LORETTA E. LYNCH, JR., UNITED STATES
ATTORNEY GENERAL,
Respondent.

FOR PETITIONER: Gerald Karikari, New York, New York.

FOR RESPONDENT: Stuart F. Delery, Assistant Attorney
General; Anthony C. Payne, Senior
Litigation Counsel; Colette J.
Winston, Trial Attorney, Office of

1 **Immigration Litigation, Civil**
2 **Division, United States Department**
3 **of Justice, Washington, D.C.**
4

5 UPON DUE CONSIDERATION of this petition for review of a
6 Board of Immigration Appeals ("BIA") decision, it is hereby
7 ORDERED, ADJUDGED, AND DECREED that the petition for review
8 is DENIED.

9 Luan Lin, a native and citizen of China, seeks review
10 of an August 2, 2013 decision of the BIA affirming an
11 Immigration Judge's ("IJ") May 1, 2012, denial of his
12 application for asylum, withholding of removal, and relief
13 under the Convention Against Torture ("CAT"). *In re Luan*
14 *Lin*, No. A099 455 947 (B.I.A. Aug. 2, 2013), *aff'g* No. A099
15 455 947 (Immig. Ct. N.Y. City May 1, 2012). We assume the
16 parties' familiarity with the underlying facts and
17 procedural history in this case.

18 Under the circumstances of this case, we have reviewed
19 the IJ's decision as modified and supplemented by the BIA.
20 *See Xue Hong Yang v. U.S. Dep't of Justice*, 426 F.3d 520,
21 522 (2d Cir. 2005); *Yan Chen v. Gonzales*, 417 F.3d 268, 271
22 (2d Cir. 2005). The applicable standards of review are well
23 established. *See* 8 U.S.C. § 1252(b)(4)(B); *Yanqin Weng v.*
24 *Holder*, 562 F.3d 510, 513 (2d Cir. 2009).

1 For applications such as Lin's, governed by the REAL ID
2 Act of 2005, the agency may, "[c]onsidering the totality of
3 the circumstances," base a credibility finding on the
4 inconsistencies in an asylum applicant's statements,
5 "without regard to whether" they go "to the heart of the
6 applicant's claim." 8 U.S.C. § 1158(b)(1)(B)(iii); *Xiu Xia*
7 *Lin v. Mukasey*, 534 F.3d 162, 167 (2d Cir. 2008) (per
8 curiam). We "defer therefore to an IJ's credibility
9 determination unless, from the totality of the
10 circumstances, it is plain that no reasonable fact-finder
11 could make such an adverse credibility ruling." *Xiu Xia*
12 *Lin*, 534 F.3d at 167. Here, the IJ reasonably based the
13 adverse credibility determination on inconsistencies
14 regarding the names of Lin's parents and the lack of
15 reliable corroborating evidence of Lin's identity.

16 First, the inconsistencies are supported by the record.
17 The 2011 birth certificate and household registration
18 booklet Lin submitted with his asylum application contradict
19 a copy of a visa petition and 2003 birth certificate the
20 Government submitted. They reflect different names for both
21 Lin's father and mother. Lin asserted that he was unaware
22 of the visa petition, is not related to the petitioner, and

1 is ignorant of the source of the 2003 certificate. The IJ
2 reasonably rejected Lin's explanation because the petition
3 contained Lin's personal information and photograph, and the
4 2003 birth certificate was issued by the Chinese government.
5 See *Majidi v. Gonzales*, 430 F.3d 77, 80-81 (2d Cir. 2005)
6 (providing that the agency need not credit an applicant's
7 explanations for inconsistent testimony unless those
8 explanations would compel a reasonable fact-finder to do
9 so). Accordingly, the IJ reasonably relied on the
10 inconsistencies among the birth certificates, visa petition,
11 and asylum application regarding the names of Lin's parents.
12 See 8 U.S.C. § 1158(b)(1)(B)(iii); *Xiu Xia Lin*, 534 F.3d at
13 166; *Xiao Ji Chen v. U.S. Dep't of Justice*, 471 F.3d 315,
14 342 (2d Cir. 2006) (the weight to be accorded to documentary
15 evidence lies largely within the agency's discretion).

16 Lin submitted other corroborating evidence that he
17 practiced Christianity: a letter from a woman purporting to
18 be his mother that confirmed that she and Lin attended
19 church in China; and the testimony of his paternal uncle,
20 who testified to Lin's church attendance in the United
21 States. However, the IJ reasonably gave minimal weight to
22 that evidence because it did not rehabilitate the

1 inconsistencies regarding his identity. The letter did not
2 itself resolve the questions raised by the visa petition,
3 and Lin's uncle knew only the nickname, not the official
4 name, of his sister-in-law, Lin's mother. *See Xiao Ji Chen*,
5 471 F.3d at 341-42. Given that Lin's identity was called
6 into question by inconsistencies in the documentary evidence
7 regarding the identity of his parents, and he failed to
8 provide reliable evidence corroborating his identity --
9 i.e., that he was the person described in the letter or that
10 his witness was actually his uncle -- the totality of the
11 circumstances supports the agency's adverse credibility
12 determination. *See Xiu Xia Lin*, 534 F.3d at 167; *Yanqin*
13 *Weng*, 562 F.3d at 513. The adverse credibility
14 determination in this case necessarily precludes success on
15 his claims for asylum, withholding of removal, and CAT
16 relief, because the only evidence of a threat to Lin's life
17 or freedom, or likelihood of torture, depended upon his
18 credibility. *Paul v. Gonzales*, 444 F.3d 148, 156 (2d Cir.
19 2006).

20
21 For the foregoing reasons, the petition for review is
22 DENIED.

23 FOR THE COURT:
24 Catherine O'Hagan Wolfe, Clerk
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